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In re Application of
BAUDY FLOC'H et al.
Serial No.: 10/560,163
PCT No.: PCT/FR04/01467
Int. Filing Date: 11 June 2004
Priority Date: 11 June 2003
Attorney's Docket No.: 0508-1150
For: PEPTIDE ANALOGUES COMPRISING AT LEAST
ONE TYPE OF AMINOACYL.....

DECISION ON PETITION
UNDER 37 CFR 1.181

This decision is in response to applicant's "Petition Under 37 CFR 1.181 to Withdraw Holding of Abandonment" filed 25 January 2008 in the United States Patent and Trademark Office (USPTO) in the above-captioned application.

On 09 December 2005, applicant filed the U.S. national stage application for international application PCT/FR04/01467, under 35 U.S.C. 371. These papers were assigned U.S. serial number 10/560,163.

On 16 January 2007, a Notification of Missing Requirements, was mailed to applicant indicating, *inter alia*, that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b), was required.

On 13 April 2007, applicant filed a response along with a petition for a one month extension of time.

On 26 November 2007, a Notification of Abandonment was mailed to applicant indicating that applicant failed to respond to the Notification of Missing Requirements.

On 25 January 2008, applicant filed the instant petition, accompanied by a copy of the declaration, sequence listing, and English translation of the international application along with an itemized postcard receipt with USPTO date-stamp 13 April 2007, indicating receipt of the identified documents.

DISCUSSION

Applicant requests withdrawal of the holding of abandonment, indicating that a response to the Notification of Missing Requirements, was originally mailed on 13 April 2007.

As stated in section 503 of the Manual of Patent Examining Procedure (Rev. 6, September 2007)(MPEP):

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in

the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

Applicant states that the executed declaration, English translation of the international application and sequence listing were originally filed on 13 April 2007 and provided a copy of the USPTO date-stamped postcard receipt.

The postcard identifies the application number, applicant name and docket number. Among the items listed on the postcard receipt are "Response to Notification of Missing Requirements, copy of Notification, declaration, amendment and submission pursuant to 37 CFR 1.821-1.825, Sequence Listing in paper and disk formats, verified English translation of the present application and petition for extension of time". The postcard is date-stamped by the USPTO "OIPE APR 13 2007."

A review of the USPTO date-stamped, itemized postcard receipt indicates that the declaration, English translation of the international application and sequence listing were deposited with the USPTO on 13 April 2007. Applicant has now presented a copy of the papers originally filed on 13 April 2007 and provided a copy of the date-stamped postcard receipt. Thus, the evidence is sufficient to establish that the documents were received in the USPTO on 13 April 2007 and that the postcard receipt indicating a date of 13 April 2007 was mailed by the USPTO. Accordingly, the Office accepts the copy of the papers as a replacement for the missing original documents with a deposit date of 13 April 2007.

A review of the declaration reveals that the declaration identifies and is executed by each inventor, and states the residency, citizenship and mailing address of each inventor. Thus, the declaration is acceptable and the requirements of 37 CFR 1.497(a) and (b).

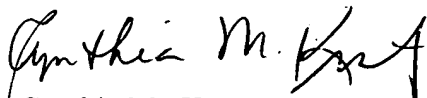
CONCLUSION

The petition under 37 CFR 1.181 is GRANTED.

The 26 November 2007 Notification of Abandonment is hereby VACATED.

The copy of the declaration, English translation of the application and the sequence listing originally submitted on 13 April 2007 and resubmitted on 25 January 2008 are acceptable. The declaration meets the requirements of 37 CFR 1.497(a) and (b). The surcharge of \$65 was paid on 21 December 2006. Applicant's petition for a one month extension of time is granted.

The application will be forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is **13 April 2007**.



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